84-1648 (1)

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ALEXANDER L.
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No.

IN THE
SUPREME COURT OF THE UNITED STATES

October Term

Adam Klimek, Individual,

Appellant

V.

Tedesco Limited Partnership,
t/a, etc., et al.,

Appellees

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

ADAM KLIMEK
pro se
c/o Clerk, Circuit Court
City of Petersburg
Petersburg, Virginia 23803
Contact Through:
804/732-2547

16 pp

QUESTIONS PRESENTED

1. Is a State Court order dismissing a suit at common law repugnant to the U.S. Constitution?

2. Are rules of a State Court repugnant to the U.S. Constitution where application of those rules, in a suit at common law deprive a person of: a trial by jury; property; and due process of law?

3. Is a State Court order dismissing a suit at common law repugnant to the U.S. Constitution where the cause of the order was plaintiff's failure to comply with a rule of court, for reason beyond his control?

4. Do the rules of the Supreme Court of Virginia apply to quo warranto proceedings, in like manner as any other proceedings before a State Court?

5. In adversity to a pro se litigant, can a member of the Virginia Bar Association, in concert with a State Court deny a sovereign free man his rights under amendments VII and XIV of the U.S. Constitution?

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DECISIONS BELOW

The Virginia Supreme Court entered its opinion of no reversible error and refusal of petition for appeal on December 4, 1984, a copy at Appendix A.

The Court denied appellant's petition for rehearing on January 18, 1985. Appendix B.

GROUNDS FOR JURISDICTION

The jurisdiction of the U.S. Supreme Court is believed to confer under 28 U.S.C. Section 1254 and amendments VII and XIV of the U.S. Constitution.

TABLE OF CITATIONS

ABA Code of Judicial Conduct:

Canon 2.A.
Canon 2.B. Commentary
Canon 3.A.(4)
Canon 3.C.(1)(a)

ABA Code of Professional Responsibility:

Canon 7, Disciplinary Rule
7-102(A)(1)

Constitutional Provisions:

U.S. Const. amend. VII and XIV

STATEMENT OF THE CASE

At about 3:25 p.m. on January 13, 1982, appellant slipped and fell backwards on snow/ice covered paved walkway under patio of Gates Foodland grocery store, a venture of Tedesco Limited Partnership, injuring/reinjuring his head, neck and back. Appellees deceived appellant and creditors into believing that they and/or their insurance company would assume the cost of medical bills, but later reneged.

On January 12, 1984, appellant filed suit. Appellees grounds of defense and interrogatories were timely responded to. Appellant moved for simultaneous submittal of Bills of Particulars but was ignored. Appellant noted that appellees counsel was one with whom he had

encountered difficulties in a different suit about a year earlier. Similar difficulties recurred, in obvious concert with the presiding judge. Appellant was/is pro se. The counsel gave notice of a date for deposition; a date uncoordinated with appellant pro se, which date was unacceptable. Appellant requested Court to appoint a judge (regular judges recused from hearing case involving appellant) so as to dispose of differences between opposing counsel and appellant. Appointment of a judge was deliberately delayed by the Court. Appellant proposed a pre-trial conference to aid differences, set a trial date and set a date for taking deposition by opposing counsel. By now the need for a judge's attention was long overdue. Opposing counsel gave notice for a second

date for deposition. Appellant moved to quash and re-proposed a conference to resolve a date and to resolve matters. Still no judge. In two separate filings appellant stated willingness to negotiate a date for depositions but was ignored by appellee counsel. In a telephonic attempt to negotiate, counsel refused to talk to appellant. Counsel set April 12, 1984 for depositions. By now a judge was assigned. Beginning on morning of April 12, 1984, appellant had three angina attacks on that date and three or four more between that date and April 16, 1984. On April 17, 1984, appellant suffered a severe heart attack and was hospitalized for about two weeks.

Because appellant failed to appear for deposition, the appointed judge dismissed the case. Appellant's appeal to

the Virginia Supreme Court, criticizing the Circuit Court's and the judge's foul-ups, was denied and so was the Petition for Rehearing.

ARGUMENT

The State Courts, the appellee's counsel and the judge took advantage of appellant's inexperience as a pro se litigant, in violation of applicable canons of ethics, constitutional rights, ABA Standards for Judges and in an outrageous tacit conspiracy to abort appellant's pursuit of justice.

Respectfully submitted,

ADAM KLIMEK

pro se

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 4th day of December, 1984.

Adam Klimek, Appellant,

against Record No. 841068
Circuit Court No.
L-7-1984

Tedesco Limited Partnership, t/a, etc., et al., Appellees.

From the Circuit Court of the City of Petersburg

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of opinion there is no reversible error in the judgment

complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

David B. Beach, Clerk

By: /s/

Deputy Clerk

Appendix A-2

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 18th day of January, 1985.

Adam Klimek, Appellant,

against Record No. 841068
Circuit Court No. L-7-1984

Tedesco Limited Partnership, t/a, etc., et al., Appellees.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 4th day of December, 1984, and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

/s/

Clerk

Appendix B

CITATION TEXT

ABA Code of Judicial Conduct:

Canon 2.A - A judge should ... conduct himself at all times in a manner that promotes public confidence is the integrity and impartiality of the judiciary.

Canon 2.B. Commentary - Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety ....

Canon 3.A.(4) - A judge should accord to every person who is legally interested in a proceeding ... full right to be heard according to law, and, ... neither initiate nor consider *ex parte* or other communications concerning a ... proceeding.

Canon 3.C.(1) - A judge should disqualify himself in a proceeding in which his impartiality might be questioned, including but not limited to instances where:

(a) he has a personal bias or prejudice concerning a party ....

ABA Code of Professional Responsibility:

Canon 7, Disciplinary Rule 7-102(A)(1) - EC 7-10 suggests that the lawyer's duty ... does not militate against a concurrent obligation to treat all other persons involved in the legal process courteously and to avoid inflicting needless harm.

Constitutional Provisions:

U.S. Const. amend. VII - In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be

preserved ...."

U.S. Const. amend. XIV, § 1 - "... nor shall any State deprive any person of life, liberty or property without due process of law ...."